

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

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U.S. SECURITIES AND EXCHANGE COMMISSION, )

Plaintiff, )

v. )

LEE SIMMONS, )

Defendant. )

No. 22-cv-7081 (JSR)

**ORDER**

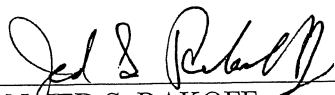
On February 17, 2023, Plaintiff Securities and Exchange Commission moved for Summary Judgment and to Deem Admitted its Requests for Admission. [Dkt. Nos. 20-21]. In support of its Motion, the SEC filed a Memorandum of Law and an extensive Statement of Undisputed Facts supported by twelve declarations and numerous exhibits. [Dkt. Nos. 22-35]. In a declaration from its counsel, the SEC noted that Defendant Lee Simmons had failed to respond to the SEC's Requests for Admission, which had been timely served. [Dkt. No. 26 at ¶¶4-5 and Ex. 1]. The SEC's counsel explained further that Defendant Simmons has failed to meaningfully participate in this case, disregarding the Court's Order to provide the SEC with his initial disclosures and failing to appear for depositions, including his own. [*Id.* ¶¶ 6-8, 13-20]. Counsel for the SEC stated that the last two communications he received from Defendant Simmons were an email Simmons sent on February 8, 2023 and an email Simmons sent on December 7, 2022. [*Id.* at ¶¶ 10, 31].

The deadline for Defendant Simmons to respond to the SEC's Motion for Summary Judgment was March 3, 2023. After that deadline passed and Defendant Simmons had not

responded to the SEC's Motion, on March 8, the Court's chambers emailed the parties to inquire if Defendant Simmons intended to oppose the SEC's Motion and about rescheduling the oral argument to a new date. The Court used the email address at which Defendant Simmons had consented in writing to accept service of all documents in this case. [Dkt. No. 12]. While the SEC notified the Court and Simmons that counsel for the SEC was available for argument on the new potential date, Defendant Simmons did not respond to the email. Having received no response from Defendant Simmons, the next day, March 9, the Court's chambers again emailed the parties and requested that counsel for the SEC contact Defendant Simmons via another means to notify him of the questions posed in the March 8 email from the Court's chambers. Later that day, counsel for the SEC emailed the Court's chambers and Defendant Simmons that counsel had called Defendant Simmons three times that day and left messages, but received no response. That same day, the Court's chambers emailed the parties notifying Defendant Simmons that he was required to answer the questions posed by the Court's chambers' March 8 email by 5 p.m. on March 10. Defendant Simmons did not respond. On Monday, March 13, counsel for the SEC emailed the Court's chambers and Defendant Simmons that counsel for the SEC had not received a response from Defendant Simmons. The Court's chambers has also included Defendant Simmons on subsequent emails regarding the SEC's requested relief, and Defendant Simmons has not responded.

**THEREFORE**, in light of the SEC's thorough submission and Defendant Simmons's failure to oppose the SEC's motion, communicate with the Court, and participate in discovery (including failing to respond to the SEC's Requests for Admission), it is hereby **ORDERED** as follows:

- (1) The SEC's Motion for Summary Judgment and to Deem Admitted its Requests for Admission is **GRANTED**, and liability is established against Mr. Simmons for all violations alleged in the Complaint [Dkt. No. 1]; and
- (2) The SEC is directed to file a memorandum regarding the remedies it is seeking on or before April 18, 2023.

  
HON. JED S. RAKOFF  
UNITED STATES DISTRICT JUDGE

Dated: 5/15, 2023